

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JOANN L. BERGET, et al.,

Plaintiffs,

v.

ORDER

Civil Case No. 08-4728 (MJD/FLN)

CITY OF EAGAN, et. al.,

Defendants.

Joann L. Berget, pro se; Ward Arvidson, pro se; Wynn Arvidson, pro se.

Joseph E. Flynn, Jardine, Logan & O'Brien PLLP, Counsel for Defendants
City of Eagan, City of Inver Grove Heights, Det. Paul Meier, Det. Corey
Thomas, Det. Brian Gunderson, Det. Doug Matteson, Det. Heather Berens,
Sgt. Tom Schoenecker, Officer Koenke, Kathleen Gilbertson, Officer Rezny,
Deputy Chief Jeff Johnson

I. INTRODUCTION & BACKGROUND

This matter comes before the Court on Plaintiffs' Motion for Review
of Clerk's Bill of Costs Judgment [Docket No. 113].

II. BACKGROUND

On March 23, 2010, the Court granted Defendants' Motion for
Summary Judgment, dismissed the Complaint with prejudice and entered
Judgment against Plaintiffs [Docket Nos. 101-102]. On April 5, 2010,

Plaintiffs filed a Notice to Appeal to the Eighth Circuit Court of Appeals [Docket No. 103].

On April 21, 2010, Defendants filed a Bill of Costs [Docket No. 104] requesting that the Clerk tax the following costs: (1) \$600 in fees of the Clerk, (2) \$3,538.45 in fees of the court reporter for any part of the transcript obtained for use in the case, (3) \$210 in fees for witnesses, and (4) \$1,188.75 in fees for exemplification and copies of papers necessarily obtained for use in the case. The total amount of costs requested was \$5,537.20. Defendants served Plaintiffs at their home address by first class mail with a copy of the Bill of Costs and Notice of Electronic Filing. On May 19, 2010, after Plaintiffs did not file any objections to the Bill of Costs, the Clerk of Court entered a Cost Judgment [Docket No. 112] in favor of Defendants for \$5,527.20 and mailed a copy of the Cost Judgment to each Plaintiff. Sixteen days later, on June 4, 2010, Plaintiffs filed this Motion for review of the Clerk's Bill of Cost Judgment.

III. DISCUSSION

Federal Rule of Civil Procedure 54(d)(1) states that “[u]nless a federal statute, these rules, or a court order provides otherwise, costs--

other than attorney's fees--should be allowed to the prevailing party." Fed R. Civ. P. 54(d)(1). Local Rule 54.3(c) sets out the appropriate scheduling for all cases in which costs are sought under Rule 54(d)(1):

- (1) Within 30 days of entry of the judgment in the case, a party seeking costs shall file and serve a verified bill of costs using the approved form.
- (2) Within 14 days after being served with a copy of the bill of costs, a party may file and serve objections to the bill of costs. If objections are filed, a party may file and serve a response to the objections within 7 days after service of the objections.
- (3) Unless the Court directs otherwise, the Clerk will tax costs at the conclusion of the procedure outlined in subsection (c)(2), above.
- (4) Within 14 days after the entry of the Clerk's decision, any party may file and serve a motion and supporting documents for review of the Clerk's decision. Within 14 days after being served with the motion for review, a party may file and serve a response. A reply brief may not be filed unless the Court otherwise permits.

D. Minn. LR 54.3(c).

In this case, Defendants properly filed a verified Bill of Costs within 30 days of entry of judgment. After Plaintiffs elected not to file any objection to the Bill of Costs, the Clerk entered judgment in favor of Defendants on May 19, 2010. As a result, Plaintiffs had until June 2, 2010 to file a motion for this Court to review the Clerk's decision. Plaintiffs,

however, waited until June 4, 2010 to file their motion, thereby making it untimely.

Accordingly, based upon the files and records herein, **IT IS HEREBY ORDERED** that Plaintiffs' Motion for Review of Clerk's Bill of Costs Judgment [Docket No. 113] is **DENIED**.

Date: August 17, 2010

s/ Michael J. Davis
Michael J. Davis
Chief Judge
United States District Court